

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

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BABY DOE, A CITIZEN OF AFGHANISTAN :
CURRENTLY RESIDING IN NORTH :
CAROLINA, BY AND THROUGH NEXT :
FRIENDS, JOHN AND JANE DOE; AND JOHN :
AND JANE DOE, CITIZENS OF AFGHANISTAN:
AND LEGAL GUARDIANS OF BABY DOE, :
: Plaintiffs, :
: :
v. :
: :
JOSHUA MAST, STEPHANIE MAST, RICHARD :
MAST, KIMBERLEY MOTLEY, AND AHMAD :
OSMANI, :
: Defendants, :
: and :
: :
UNITED STATES SECRETARY OF STATE :
ANTONY BLINKEN AND UNITED STATES :
SECRETARY OF DEFENSE GENERAL :
LLOYD AUSTIN, :
: Nominal Defendants. :
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**PLAINTIFFS' OPPOSITION TO DEFENDANT RICHARD MAST'S MOTION AND
MEMORANDUM IN SUPPORT OF ORDER DIRECTING CLERK TO REQUEST
INFORMATION HELD BY A VIRGINIA CIRCUIT COURT**

Richard Mast files what appears to be an innocuous, if unusual, motion, asking that the clerk of this Court be ordered to ask the clerk of the Fluvanna Circuit Court to provide copies of certain sealed filings made in the proceeding in which Plaintiffs John and Jane Doe seek to vacate the adoption order improperly obtained by Defendants Joshua and Stephanie Mast. *See*

ECF No. 174. In so doing, Mast fails to inform the Court of a critical piece of information that explains why he cannot provide the documents himself: the circuit court ordered that all parties to that proceeding destroy the documents following notification from the U.S. Department of Justice (“DOJ”) that they contained classified information that Joshua Mast improperly obtained and that the information was unreliable. *See, e.g., A.A. and F.A. v. J.M. and S.M.*, Case No.: CL22000186-00, 10/21/22 Order (Exh. 1); 11/28/22 Order (Exh. 2)¹ (collectively, the “Destruction Orders”). Indeed, the parties were required to certify to the circuit court that they “permanently deleted or destroyed” all copies of the documents.² *Id.*

The circuit court issued the Destruction Orders based on the DOJ’s representation that the documents contain information that an “Original Classification Authority in [the Office of the Director of National Intelligence (‘ODNI’) has determined . . . is classified pursuant to ODNI’s Classification Guide and Executive Order 13526.” Oct. 17, 2022 Letter from K. Wyer to Hon. Richard E. Moore (Exh. 3) at 2. The government further explained that the United States “in no way confirms or denies the accuracy of the United States Government information or assertions based thereon appearing in the documents. . . .” *Id.* It asserted that “[c]lassified information belongs to the United States Government, and the President’s authority to classify information and control access to such information overrides state court rules regarding admissibility of evidence in civil litigation between private parties.” *Id.* at 1 (citing *Dep’t of Navy v. Egan*, 484 U.S. 518, 529 (1988)); *see also A.A. and F.A. v. J.M. and S.M.*, Case No.: CL22000186-00, 8/9/22 Hr’ng Tr. at

¹ As this Court is aware, until further order of the circuit court, filings in, and transcripts from, the circuit court matter remain under seal. *See* ECF No. 73, Exh. B.

² Mast asks that the clerk be ordered to ask the circuit court clerk for eight documents – Exhibits 4, 5, 7, 11-15 to his opposition (ECF No. 171) to Plaintiffs’ motion for entry of a protective order. Exhibits 14 and 15, though, were not ordered destroyed by the circuit court and, in fact, are attached as exhibits to Mast’s opposition. *See* ECF Nos. 171-14, 171-15.

1487:19-21 (Exh. 4) (explaining that Joshua Mast “has never been authorized . . . to receive” the information at issue); *A.A. and F.A. v. J.M. and S.M.*, Case No.: CL22000186-00, 8/9/22 Hr’ng Tr. at 1487:21-23 (“there should be no negative inference drawn regarding any party with respect to that information”). *A.A. and F.A. v. J.M. and S.M.*, Case No.: CL22000186-00, 9/9/22 Hr’ng Tr. at 1898:4-8 (Exh. 5) (“The information that they think they know cannot be confirmed or denied as accurate”). As a result, the circuit court issued the Destruction Orders.

Given the position of the U.S. government regarding the classified information contained within the documents implicated by Mast’s motion, and the circuit court’s subsequent Destruction Orders, there is no basis to order that a copy of them be transferred from the circuit court clerk to the federal court clerk. They are unreliable, were obtained by Joshua Mast without authorization, and cannot be relied upon. Mast offers no argument otherwise.

Accordingly, Plaintiffs’ respectfully asks the Court to deny Mast’s motion.

Dated: March 14, 2023

Respectfully submitted,

/s/ Maya Eckstein

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of March 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all CM/ECF participants.

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